(iii)(b) of the Civil Law Enactment, 1937, begins to run on the appointment of an administrator in England, or does not begin to run until, by resealing of the Letters of Administration or otherwise, a personal representative is appointed in the Federation.

Section 4(iii)(b) reads as follows: "The cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation."

Held: the word "not later than six months after his personal representative took out representation" must be construed as referring to representation in the Federation.

COURT OF APPEAL.

M. Edgar for the appellant.

D. G. Rawson for the respondent.

Cur. Adv. Vult.

Mathew, C.J. : — The only point in this appeal is whether the learned trial Judge was correct in holding that the period of limitation of six months prescribed by section 4 (iii) of the Civil Law Enactment, 1937 began to run on the appointment of an administrator in England. The learned trial Judge came to this conclusion, taking the view that proceedings could have been taken against the administratrix of the estate as soon as letters of administration were taken out by her in England. This view does not appear to be supported by the rule set out in Williams on Executors (12th edition) at page 1235, which reads :—

"Unless he can be sued as executor de son tort or unless he has obtained a grant of probate or letters of administration in this country, a foreign personal representative cannot be sued in his official character in this country."

In my view, the words "not later than six months after his personal representative took out representation" must be construed as referring to representation in the Federation.

I would allow this appeal with costs here and the costs of the preliminary point in the Court below, and direct that the order of the High Court be set aside, and that the suit be heard and determined. The deposit of $500 should be paid out to the appellant.

Sir Charles Murray-Aynsley, C.J., (S.) : — I have had the opportunity of reading the judgment of the learned President of the Court with which I concur and have nothing to add.

Briggs, J. : — The question raised by this appeal is whether the limitation period of six months prescribed by section 4 (iii) (b) of the Civil Law Enactment, 1937, begins to run on the appointment of an administrator in England, or does not begin to run until, by resealing of the Letters of Administration or otherwise, a personal representative is appointed in the Federation.

The learned trial Judge held, in my view rightly, that the question must be considered from the point of view of possible proceedings in the Federation, and that there was no sufficient representation merely an action might have lain in England: but he considered that proceedings could have been instituted here against the English administratrix before the resealing. This seems to be contrary to the rule formulated in Williams on Executors, 12th Edition, page 1235, as follows :—

"Unless he can be sued as executor de son tort, or unless he has obtained a grant of probate or letters of administration in this country, a foreign personal representative cannot be sued in his official character in this country."

In my view the cases cited in support fully establish the principle that, even where proceedings can be served out of the jurisdiction, a personal representative appointed in a foreign country cannot be sued in this country in that representative capacity. If there is no local representative, the intending plaintiff must either obtain representation as a creditor or procure the appointment of an administrator *ad litem*. Until this is done there is no effective representation so as to enable the estate to be sued and limitation to run.

I think this construction is supported by the general principle that words in statutes are *prima facie* to be read in a sense applicable to the jurisdiction governed by the statute. In a local enactment, 'representation' should ordinarily mean 'representation effective in the Federation'. The argument from convenience supports the same view. If 'representation' means representation in a foreign country, representation in any foreign country must be sufficient, whether the plaintiff has a reasonable chance to know about it or not, and whether an action of the type intended would lie there or not.

I agree that the appeal should be allowed with costs here and costs of the preliminary point, that the order of the High Court must be set aside, and that the suit should be heard and determined on the basis that the defence of limitation fails. The deposit should be paid out to the appellant.

Appeal allowed.

CHONG YIK v. PUBLIC PROSECUTOR.

[A. Cr. J. (Storr, J.) February 12, 1953]

[J.B. — Criminal Appeal No. 23 of 1952]

Criminal Procedure Code (Cap. 6), s. 399 — Admissibility of report of Government Chemist.

In this appeal it was argued that the certificate of the Government Chemist was wrongly admitted in evidence by the learned President. It appeared that a copy of the report had not been supplied to the accused as required by the proviso to section 399(i) of the

Criminal Procedure Code, as amended by the Criminal Procedure Code (Amendment) Ordinance, 1952.

Held: the proviso to section 399(i) of the Criminal Procedure Code is a condition precedent and if it is not complied with the document cannot be admitted under the section; (2) in this case the document was wrongly admitted in evidence and that wrongful admission was an irregularity, which could not be cured under section 422 of the Criminal Procedure Code.

CRIMINAL APPEAL.

A. J. Braga for the appellant.

M. Suffian (D.P.P.) for the Public Prosecutor.

Cur. Adv. Vult.

Storr, J.: — In this appeal Mr. Braga for the appellant argued a point of law which did not form one of the grounds of appeal filed under section 307(vi) of the Criminal Procedure Code, but as it had been communicated to the learned Deputy Public Prosecutor before the hearing, I decided to hear the arguments and, if necessary, act under my powers of revision under section 325 Criminal Procedure Code.

Mr. Braga's submission was that a witness for the prosecution produced an unproved document (i.e. a certificate of the Government Chemist — Ex. P10 —) which was wrongly admitted as evidence by the learned President presumably under section 399(i), Criminal Procedure Code, and that that wrongful admission of evidence amounted to an illegality and therefore the conviction should be quashed and the sentence set aside, as without this unproved document there was no evidence against the appellant to support the charge. Inche Suffian, the learned Deputy Public Prosecutor, submitted that the wrongful admission of the certificate amounted to an irregularity that could be cured by section 422, Criminal Procedure Code.

If section 399(i), Criminal Procedure Code, did not exist, a report of the Government Chemist could only be proved by calling him as a witness to produce it. Section 399(i), Criminal Procedure Code, is in effect a departure from the ordinary procedure of proving documents in a Court and is obviously enacted to save the party wishing to use as evidence a report of the persons named the trouble and expense of calling such persons as witnesses to prove the report. There is, however, a proviso which to my mind is a condition precedent to the convenience allowed by this section. If that condition precedent is not complied with, then the document must be proved in the usual way and the prosecution or the party wishing to produce the document cannot take advantage of the section.

In the present case the document (a certificate from the Government Chemist) was produced by a prosecution witness and admitted by the learned President without the prosecution who tendered it having complied with the proviso to section 399(i); it was therefore wrongly admitted. The certificate (Ex. P10) is an unproved document and the production of such by a witness for the prosecution amounts to an illegality. Without that document I can find no evidence on the record to support the conviction.

Acting under my powers of revision, I quash the conviction and set aside the sentence.

Conviction quashed; Sentence set aside.

ISAAC PENHAS v. TAN SOO ENG.

[P. C. (Lord Merriman, Lord Normand, Lord Oaksey, Lord Reid and Lord Asquith of Bishopstone) February 17, 1953]

[Privy Council Appeal No. 21 of 1951]

Marriage — Validity of marriage of a Jew to a non-Christian Chinese lady — Modified Chinese form of marriage ceremony — Common Law monogamous marriage — Intention — Mixed marriage between domiciled inhabitants of different religions or races — Validity of — Charter of 1826.

This was an appeal from a judgment of the Court of Appeal of the Colony of Singapore (reported in (1950) M.L.J. 104) dismissing an appeal by the appellant from a judgment of Mr. Justice Gordon-Smith (reported in (1949) M.L.J. 223) upon the trial of an issue ordered to be tried in a Petition by the respondent for letters of administration of the estate of Abraham Penhas deceased against which the appellant had entered a caveat.

The said issue was in the following terms: "Whether the petitioner Tan Soo Eng is or is not the lawful widow of Abraham Penhas and if the answer is in the affirmative when the said Tan Soo Eng married the said Abraham Penhas". Both the learned trial Judge and the Court of Appeal decided the said issue in favour of the respondent, determining that she had been lawfully married to the deceased on or about the 22nd December, 1937. From their decisions the appellant appealed to the Judicial Committee of the Privy Council.

The principal question to be decided was whether there was in 1937 anything in the religions, manners or customs of Jews or Chinese domiciled in Singapore which prevented them from contracting a common Law monogamous marriage.

Held (dismissing the appeal): the Common Law of England was in force in Singapore in 1937 except in so far as it was inapplicable and except in so far as it was necessary to modify it to prevent hardships upon the inhabitants who were entitled by the terms of the Charter of 1826 to the exercise of their religious manners and customs.

Their Lordships agreed with the view expressed by Evans, J. in the Court of Appeal in the present case that in a country such as Singapore where priests are few and there is no true parochial system, where the vast majority are not Christians, it is neither convenient nor necessary that two persons such as the respondent and the deceased should be required to call in an episcopally ordained priest to effect a marriage.

There was no form of a ceremony of marriage in the present case which was applicable to both parties to the marriage and accordingly they seem to have adopted a composite ceremony, the wife worshipping